

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 07-50032

JIMMY JAY LAWSON

DEFENDANT

ORDER

Now on this 13th day of November, 2007, the above referenced matter comes on for consideration of the defendant's **Motion to Release Defendant Pending Sentencing** (document #27) and the government's response thereto.

1. The defendant entered a plea of guilty to the charge of knowingly possessing child pornography which was produced using materials which had been transported in interstate commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252(a)(4)(B) and (b)(2). The defendant was immediately taken into custody and remains incarcerated in the Washington County Detention Center awaiting sentencing.

2. The defendant argues that he suffers from sleep apnea and has a heart condition requiring medication. Due to the sleep apnea, the defendant requires a breathing machine while he sleeps that has to be calibrated periodically and monitored by his doctor at the VA Hospital in Fayetteville, Arkansas. Further, the defendant has been prescribed heart medication by his VA doctor.

3. The defendant alleges that he has been denied further

treatment by the VA Hospital due to being incarcerated and that he was denied treatment by the Washington County Detention doctor because he was a patient of the VA. The defendant asserts that he cannot receive any treatment for his sleep apnea or heart condition as long as he is being incarcerated. Due to these factors, the defendant seeks release from detention to allow him to get medical treatment until the date of his sentencing.

4. The government has responded and states that since November 7, 2007, the defendant has been receiving heart medication while incarcerated. Further, the defendant has access to his breathing machine and has been observed wearing the breathing machine sporadically since incarceration.

5. Clearly, 18 U.S.C. § 3143(a)(2) requires that the defendant be detained pending sentencing. And, although 18 U.S.C. § 3145 provides for review and appeal of a release or detention order, upon due consideration, the Court finds that defendant cannot show exceptional reasons that would justify his release under 18 U.S.C. § 3145(c). Accordingly, defendant shall remain detained. See United States v. Brown, 368 F.3d 992 (8th Cir. 2004); United States v. Mostrom, 11 F.3d 93 (8th Cir. 1993).

IT IS SO ORDERED.

/S/JIMM LARRY HENDREN
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE